



## Eugene Hearings Official

Phone: 541-682-5377  
www.eugene-or.gov/hearingsofficial

## AGENDA

**Meeting Location:**  
Atrium Building – Saul Room  
99 West 10<sup>th</sup> Avenue

The Eugene Hearings Official welcomes your interest in these agenda items. Feel free to come and go as you please at any of the meetings. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours notice. To arrange for these services, contact the Planning Division at (541)682-5481.

### **WEDNESDAY, December 5, 2012** **(5:00 p.m.)**

#### **PUBLIC HEARING ON ZONE CHANGE REQUEST**

##### **Cuddeback Holdings (Z 12-4)**

<b>Assessors Map:</b>	17-04-33-41	<b>Tax Lot:</b>	700 and 800
<b>Location:</b>	Southwest corner of West 13 <sup>th</sup> Avenue and Commerce Street		
<b>Request:</b>	To change the base zonings from I-2 Light-Medium Industrial and AG Agricultural to GO General Office; and to remove the /WP Waterside Protection overlay zone, but retain the /WB Wetland Buffer overlay zone.		
<b>Applicant:</b>	Cuddeback Holdings		
<b>Applicant's Representative:</b>	Bill Kloos, Law Office of Bill Kloos		
<b>Lead City Staff:</b>	Becky Taylor, Associate Planner Telephone: (541) 682-5437 E-mail: becky.g.taylor@ci.eugene.or.us		

#### **Public Hearing Format:**

1. Staff introduction/presentation
2. Public testimony from applicant and others in support of application.
3. Comments or questions from interested persons who neither are proponents nor opponents of the proposal.
4. Public testimony from those in opposition to application.
5. Staff response to testimony.
6. Questions from Hearings Official.
7. Rebuttal testimony from applicant.
8. Closing of public hearing.

The Hearings Official will not make a decision at this hearing. The Eugene Code requires that a written decision must be made within 15 days of close of the public comment period. To be notified of the Hearings Official's decision, fill out a request form at the public hearing or contact the lead City staff as noted above. The decision will also be posted at [www.eugene-or.us/hearingsofficial](http://www.eugene-or.us/hearingsofficial).



## **ZONE CHANGE STAFF REPORT**

### **CUDDEBACK HOLDINGS, LLC (Z 12-4)**

**Application File Name (Number):**

Cuddeback Holdings LLC (Z 12-4)

**Applicant's Request:**

To change the split-zoning of the subject properties from I-2/GO/WB/WP Light-Medium Industrial and Agricultural with Wetland Buffer and Waterside Protection overlays to GO/WB General Office with Wetland Buffer overlay.

**Subject Property/Location:**

Tax Lots 700 and 800 of Lane County Assessor's Map 17-04-33-41; Located at the southwest corner of Commerce Street and West 13<sup>th</sup> Avenue.

**Relevant Dates:**

Zone Change application submitted on September 20, 2012; application deemed complete on October 16, 2012; public hearing scheduled for December 5, 2012.

**Applicant's Representative:**

Nick Klingensmith, Law Office of Bill Kloos, (541) 912-5280

**Lead City Staff:**

Becky Taylor, Associate Planner, Eugene Planning Division, Phone: (541) 682-5437.

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### **Background and Present Request**

The applicant is requesting approval to change the zoning of the subject property (Tax Lots 700 and 800 of Assessor's Map 17-04-33-41), located just south and southwest of the intersection of West 13<sup>th</sup> Avenue and Commerce Street. The total area of request is approximately 7.64 acres, with Tax Lot 700 being approximately 3.56 acres in size and Tax Lot 800 being approximately 4.09 acres in size. The subject property is relatively-flat and vacant.

Adjacent lands to the south, west, and east are Goal 5 protected wetlands owned by the Nature Conservancy. Adjacent lands to the north are developed with commercial uses, namely Walmart. Farther to the north is West 11<sup>th</sup> Avenue, a major arterial that is dominated by abutting commercial uses. Farther to the east are several buildings under light-medium

industrial use. Residential uses are located farther to the southeast. Farther to the west is Willow Creek, which is a protected Goal 5 natural resource that flows northward along the west boundary of the former “speedway” property, which is also surrounded by Goal 5 protected wetlands.

Both tax lots are split-zoned I-2 Light-Medium Industrial and AG Agricultural; and both tax lots have /WB Wetland Buffer and /WP Waterside Protection overlay zones. These overlay zones were applied to the property by the City of Eugene in its implementation of the West Eugene Wetlands Plan (City file Z 95-18). The applicant’s request is to change the zoning of both lots to GO/WB General Office with Wetland Buffer Overlay. The /WP Waterside Protection Overlay removal is requested because, as a result of a prior property line adjustment (City file LA 04-68), the subject property is no longer affected by the protected waterway. The request does not involve changing the boundaries of any protected natural resources or their regulated setback areas. Additional details of the proposal are included on the applicant’s written statement and supporting documentation, all of which are included as part of the public record and located in the application file for reference.

The Eugene Code (EC) requires City staff to prepare a written report concerning the subject land use applications. In accordance with the Type III land use application procedures at EC 9.7320, the staff report is made available seven days prior to the public hearing, to allow citizens an opportunity to review the staff analysis of the application. The staff report provides only preliminary information and recommendations. The Hearings Official will consider additional public testimony and other materials presented at the public hearing before making a decision on the application. Pursuant to EC 9.7330, the Hearings Official’s written decision on the application is made within 15 days from the close of the public record, following the public hearing. The quasi-judicial hearing procedures applicable to this request are described at EC 9.7065 through EC 9.7095.

### **Referrals/Public Notice**

This zone change application was deemed complete on October 16, 2012. Staff provided information concerning the application to other appropriate City departments, the Oregon Department of Transportation (ODOT), public agencies, and the affected neighborhood groups (West Eugene Community Organization and Churchill Area Neighbors) on October 19, 2012. Staff also mailed notice of the proposed zone change to the Oregon Department of Land Conservation and Development (DLCD) on October 25, 2012.

On November 2, 2012, staff mailed public notice of the proposed zone change and the hearing date to owners and occupants within 500 feet of the subject property, including DLCD’s Eugene District Wetlands Office and the Nature Conservancy. No written public testimony was received, but staff discussed the proposal with both the DLCD’s Natural Resource Department and the Nature Conservancy – to confirm that the request was not changing any Goal 5 protected resource area boundaries. Staff confirmed that the requested removal of the /WP Waterside Protection overlay zone was based on the subject property no longer being encumbered by the protected resource area because prior property line adjustments created intervening lands between Willow Creek and the subject property. Staff also confirmed that the

/WB Wetland Buffer overlay zone will remain and the associated setbacks from the protected resources on adjacent lands will be implemented at the time of development. It is also noted that the subject property is designated in the West Eugene Wetlands Plan as having wetlands approved locally for fill and development; the property owner will still need to obtain wetland fill permits consistent with state and federal wetland laws.

### **Staff Analysis**

The Eugene Code, EC 9.7330 and 9.8865, requires the Hearings Official to review an application for a zone change and consider pertinent evidence and testimony as to whether the proposed change is consistent with the criteria required for approval, shown below in **bold** typeface.

**EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.**

The applicant is requesting to change the base zoning of the subject property, which is currently a split of I-2 Light-Medium Industrial on the north half of the properties and AG Agriculture on the south half of the properties, to GO General Office. The applicant is also requesting to change the overlay zoning of the subject property, to remove the /WP Waterside Protection overlay zone, but retain the /WB Wetland Buffer overlay zone.

The area of request is located within a Commercial designation depicted on the Metro Plan land use diagram. Although the Metro Plan diagram is shown at a generalized metropolitan scale, the designation is relatively clear in this case, appearing to extend well beyond the subject property in all directions. The Commercial designation therefore appears to be parcel-specific, because the subject property does not border any other plan designation (see Metro Plan, page II-G-2). In other cases, where the designation is less clear or the subject property may border more than one plan designation, the Metro Plan diagram text would require further interpretation by reference to area refinement plans and other local planning documents. Here, such analysis does not appear necessary based on the parcel-specific nature of the Commercial designation. Nonetheless, staff notes that the applicable refinement plan is the Willow Creek Special Area Study (WCSAS), which also shows a Commercial designation for the area of the subject property consistent with the Metro Plan.

In regards to surrounding land use designations beyond the boundary of the subject property, both plans show lands farther to the east and west as Light-Medium Industrial, and to the south as High-Density Residential. To the north, extending beyond West 11<sup>th</sup> Avenue to Amazon Creek, the area is designated Commercial. Based on this mix of surrounding designations, the applicant requests GO General Office zoning, which fits within the Community Commercial Center category provided in the Metro Plan, and which is defined in the Eugene Code as providing for a compatible mix of office and residential development in transitional locations between residential and commercial uses. Staff agrees with the applicant that the GO zone is a good fit for the subject property because of its location between commercial development to the north and the residential uses to the southeast. Staff confirms that the GO zoning is consistent with the Commercial designation for the subject property.

With regard to applicable Metro Plan policies, although none appear to serve as mandatory approval criteria in this instance, the following appear relevant and provide general support for the requested zone change:

Economic Element

*B.2 Encourage economic development, which utilizes local and imported capital, entrepreneurial skills, and the resident labor force.*

*B.11 Encourage economic activities, which strengthen the metropolitan area's position as a regional distribution, trade, health and service center.*

The proposed GO General Office zoning allows for a greater range of economic activities than the existing I-2 Light-Medium Industrial and AG Agriculture zonings of the subject property, which can generally encourage economic development consistent with these policies.

The applicant's written statement also responds to Policy 6 and 16 of the Economic Element, as follows.

*B.6 Increase the amount of undeveloped land zoned for light industrial and commercial uses correlating the effective supply in terms of suitability and availability with the projections of demand.*

The applicant states that rezoning the property to a zone designation that is consistent with the plan designation will increase the amount of undeveloped land available for commercial uses. The applicant notes that demand for developable commercial land in this area has increased as commercial development has occurred along West 11<sup>th</sup> Avenue. The applicant asserts that the subject property is especially suitable for a rezone to GO because that zone designation allows for a range of uses that would complement the mix of commercial and light-industrial uses adjacent to the subject property and the residential uses nearby.

The applicant has provided a conceptual development plan, which has not been evaluated by staff for compliance with relevant development standards; this concept is not binding and is provided voluntarily by the applicant for illustrative purposes. The applicant explains, under the above Metro Plan policy, that one possible development strategy for the subject property would be to develop high-density residential uses on the southern and western portions of the site that face the Nature Conservancy land, while developing the northern and eastern portions of the site with office uses to create a smooth transition to the larger existing commercial development to the north. Thus, the applicant states that the GO zone would simultaneously increase the amount of commercially zoned land while providing a buffer between the major retail center to the north and the residential uses and open space to the south.

*B.16 Utilize processes and local controls which encourage retention of large parcels or consolidation of small parcels of industrially or commercially zoned land to facilitate their use or reuse in a comprehensive rather than piecemeal fashion.*

The applicant responds to this policy by noting that the subject request involves two adjacent tax lots to facilitate the subject property's use in a comprehensive fashion.

#### Transportation Element

- F.3 Provide for transit-supportive land use patterns and development, including higher intensity, transit oriented development along major transit corridors and near transit stations; medium- and high-density residential development within 1/4 mile of transit stations, major transit corridors, employment centers, and downtown areas; and development and redevelopment in designated areas that are or could be well served by existing or planned transit.*

The proposed GO zone allows for a higher intensity of both commercial and high-density residential development near a major arterial that is well served by transit service on West 11<sup>th</sup> Avenue. Additional transportation policies in the Metro Plan including F.14, F.15 and F.17 address the mobility needs of various users of the transportation system. Future development of the properties may also require a Traffic Impact Analysis to ensure that the surrounding transportation facilities can accommodate the traffic generated by the proposed uses.

#### Environmental Resources Element

- C.6 Agricultural production shall be considered an acceptable interim and temporary use on urbanizable land and on vacant and underdeveloped land where no conflicts with adjacent urban uses exist.*

The applicant addresses the above policy, with regard to the requested change of zoning of the southern half of the subject properties from AG Agriculture to GO General Office, noting that the policy only envisions agricultural uses within the UGB as interim and temporary uses.

Based on the above findings, staff concludes that the proposed zone change complies with the approval criterion at EC 9.8865(1).

**EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.**

The applicable adopted refinement plan for the area of the proposed zone change is the Willow Creek Special Area Study (WCSAS). This refinement plan's "land use diagram" is defined in the following policy:

#### Land Use

- 3. Map E reflects land-use arrangements for the Willow Creek Basin and shall become one basis for future implementation through zoning or other applicable*

*land use measures.*

Map E identifies the subject property for Commercial uses. The proposed GO zoning is consistent with this designation, as discussed previously at EC 9.8865(1), the findings for which are incorporated by reference.

4. *The City of Eugene shall apply its planned unit development (PUD), cluster subdivision or site review procedures (as appropriate) in the Willow Creek Basin in at least three cases:*
  - a. *Properties with an elevation and slope, soil and geological conditions which fit the criteria identified in Eugene's South Hills Study for applying PUD procedures;*
  - b. *Properties in or adjacent to designated natural areas will be developed under either PUD or site review procedures, depending on the scale and complexity of the project; and*
  - c. *Properties along natural stream courses will be developed under either PUD or site review procedures depending on the scale and complexity of the project.*

With regard to 4a of the above policy, the subject property does not fit any of the South Hills Study criteria for PUD applicability, being a relatively flat site situated well below 500 feet in elevation. With regard to 4b of the above policy, the "designated natural areas" of the WCSAS are identified as "Natural Area" on the refinement plan's diagram which shows the applicable land use designations. Map E shows the "Natural Area" designation in the WCSAS with the number 8, which is an area geographically located south of West 18<sup>th</sup> Avenue, nowhere near the subject property. With regard to 4c of the above policy, Map G of the WCSAS identifies "Environmental Assets." The delineated "stream course" in the vicinity of the subject property is Willow Creek, which is the Goal 5 natural resource that is located west of the subject property. As discussed previously, this water resource has a protection setback regulated by the subject property's /WP Waterside Protection overlay zoning; however, as a result of prior property line adjustments, the subject property is no longer within the regulated /WP resource and setback area. Hence, the applicant seeks to remove the /WP overlay zone. The applicant proposes to retain the property's /WB Wetland Buffer setback, based on the protected wetlands designated in the West Eugene Wetlands Plan (WEWP); however, those WEWP wetlands are not identified as natural resources in the WCSAS.

Based on these findings, the policy basis for requiring site review or PUD procedures appears to be unfounded in this case because the refinement plan does not identify the subject property as being adjacent to a "designated natural area."

#### Off-Site Public Facilities

3. *Analysis shall be conducted and appropriate measures taken to deal with urban level storm run-off from the Willow Creek Basin.*

The applicant notes that this policy addresses the importance of adequately handling stormwater runoff from urban development, but that no development is proposed with this application; thus, no urban storm runoff will arise from approval of the application. Staff concurs with the applicant the City's land use code requires new developments that generate additional impervious surface area to provide stormwater management facilities. Staff notes that in addition to stormwater management facilities accommodating flood control, the City's stormwater development standards will require future development of the site to also provide pollution-reduction or pre-treatment of runoff from impervious surfaces before discharging to the public conveyance system. In this case, the public stormwater conveyance system in the vicinity consists of pipes in the abutting streets to the north.

Pages 7 through 10 of the applicant's statement address policies of the Eugene Commercial Lands Study; although staff generally concurs with the applicant's findings of consistency, regarding the requested GO zoning furthering those economic policies, staff finds that those policies do not serve as mandatory approval criteria for the subject request.

The applicant also addresses the West Eugene Wetlands Plan (WEWP), the adopted policies of which appear to primarily direct local government actions rather than serve as mandatory approval criteria for the requested zone change. Nevertheless, staff agrees with the applicant that the relevant provision is Policy 3.12, "Protect and create buffer areas between regulated wetland boundaries and adjacent uses or developments," which has already been implemented by the City through implementation of the /WB Wetland Buffer overlay zoning to the subject property. As discussed previously, the subject property abuts protected wetlands; the applicant proposes to retain the /WB overlay zoning, which will maintain the established setbacks that regulate uses and applicable development standards to ensure protection.

Staff notes that, while the WCSAS establishes a policy basis for applying site review to properties that abut natural resources, the subsequently-adopted WEWP more precisely defined the resource areas to be protected and established the regulatory tool as the /WB and /WP overlays. As such, staff concludes that application of the /SR overlay to subject property is not necessary because the /WB overlay zone will remain and is the more effective and precise regulatory tool in this instance.

Based on the above findings, staff concludes that the proposed zone change complies with the approval criterion at EC 9.8865(2).

**EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.**

Key urban facilities and services are defined in the Metro Plan as: wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City- wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis (see Metro Plan page V-3).



The uses and density that will be allowed by the proposed GO zone on the subject property can be serviced through the orderly extension of key urban facilities and services. Referral comments from Public Works staff confirm that the following key urban facilities and services are directly available to the subject property as follows: public wastewater and stormwater pipes are located within Commerce Street, abutting the subject property; and the properties have street access onto both Commerce Street and West 13<sup>th</sup> Avenue, which are classified as local commercial-industrial streets, consistent with the proposed zoning, and which are improved with 44 feet of pavement width within 70 feet of right-of-way.

As the properties are already within the City limits, the Eugene Water and Electric Board (EWEB) will provide water and electric services. Police protection is provided by the City of Eugene and emergency and fire services are currently provided on a regional basis by the cities of Eugene and Springfield. Qwest communications and a variety of other telecommunications providers offer communications services throughout the Eugene/Springfield area and planning and building permit services are provided by the City of Eugene. The properties are located in the Willow Creek parks planning area; parks and recreation services will be provided by the City of Eugene. Additionally, education services will be provided by the Eugene 4J School District and the properties will be served by Twin Oaks Elementary School, Kennedy Middle School and Churchill High School.

Based on the above findings, staff concludes that the proposed zone change complies with the approval criterion at EC 9.8865(3).

**EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:**

**(a) EC 9.2150 Commercial Zone Siting Requirements.**

The commercial zone siting requirements referred to in EC 9.2150 pertain to the establishment of C-1 and C-4 zoning. The request is for GO zoning, and as such, the siting requirements are inapplicable.

**(q) EC 9.4715 /WP Waterside Protection Overlay Zone Siting Requirements.**

As noted at EC 9.4715, the /WP overlay zone applies to streams, rivers, channels, ponds and other water features and adjacent areas that meet the approval criteria of EC 9.8865 and that are specified for protection in an adopted plan, as described in EC 9.4720. The /WP overlay zone was previously applied to the subject property, to protect Willow Creek as specified in the WEWP. As a result of prior property line adjustments (LA 04-68), the subject property is no longer within the footprint of the waterside protection area; as such, it no longer meets the applicable /WP overlay zone siting requirements of EC 9.4715.

**(t) EC 9.4815 /WB Wetland Buffer Overlay Zone Siting Requirements**

The /WB overlay zone applies to property adjacent to wetlands identified for protection in the WEWP. As noted previously, the subject property abuts protected wetlands to the south. Consistent with this adopted plan and applicable siting requirements, /WB overlay zoning will remain in place as part of the zone change.

**EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.**

The proposed zone change does not include the NR zone; this criterion does not apply.

**Transportation Planning Rule (TPR):**

The applicant's written statement addresses all of the Statewide Planning Goals (1 through 19) adopted by the Land Conservation and Development Commission (LCDC); however, staff finds that only Goal 12 Transportation must be specifically addressed as part of the requested zone change and in the context of Oregon Administrative Rules, as follows.

As adopted, OAR 660-012-0060(1) states:

- (9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.*
  - (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the plan map:*
  - (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and*
  - (c) The area subject to the amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660- 024-220(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.*

In response to referral comments received from DLCD Community Services Division, the City Attorney has provided the following documents for the record:

1. DLCD's December staff report to LCDC (for 12/8/11 LCDC Meeting), including Options #1, 1A, 2 and 2A for OAR 660-012-0060(9) and written testimony from the public.
2. Written testimony from Senator Lee Beyer (regarding 0060(9)) that was submitted after the DLCD packet was distributed.
3. DLCD's Option #1B for 0060(9), handed out by DLCD at the 12/9/11 LCDC Meeting

4. The amendments to OAR 660-012-0060 that were adopted by LCDC
5. The amendments to OAR 660-012-0060 that were filed with the Secretary of State

The City Attorney has also provided the following summary with regard to legislative history:

By way of brief history, for LCDC's December, 8, 2011, meeting, DLCD staff presented the LCDC with four options for the wording of 0060(9); Options #1, #1A, #2 and #2A. While Option #1 had majority support from the TPR-RAC, based on DLCD staff's recommendation, the LCDC-OTC joint subcommittee recommended that LCDC adopt Option #2. Option #2 required a demonstration that "the proposed zoning is consistent with the TSP assumptions about development of the area of the proposed amendment." On December 9, 2011, in response to testimony and concerns raised by LCDC regarding Option #2 the previous day, DLCD presented LCDC with yet another option for 0060(9); Option #1B. This Option #1B, tweaked Option #1A by adding the phrase "and the proposed zoning is consistent with the TSP." In DLCD's December 9 document setting forth Option #1B, DLCD stated that the "variation on Option #1 was drafted based on testimony that proposed amendments should be allowed if they are consistent with both the comprehensive plan map and the TSP, but that Option #2 defined consistency too narrowly and would not work in many cases." LCDC ultimately adopted a slightly revised version of Option #1B.

Based on the plain language of 0060(9), as well as LCDC's specific rejection of Option #2 that would have required that the proposed zoning be "consistent with the TSP assumptions about development of the area of the proposed amendment," the City believes that it is reasonable to find that a proposed zone change meets the criteria of 0060(9) if, in addition to satisfying the other criteria, the current comprehensive plan map designation (with which the proposed zone change is consistent) was in place in 2001, the year that the City Council adopted TransPlan. This finding is sufficient because, pursuant to state and local requirements, in order for the City Council to have adopted TransPlan, the Council was required to conclude that TransPlan is consistent with the City's adopted comprehensive plan. A proposed zone that is consistent with the 2001 comprehensive plan map designation, together with the City Council's conclusion in 2001 that TransPlan is consistent with the comprehensive plan map, is sufficient to support a finding that the proposed zone is consistent with TransPlan.

For the reasons discussed below, the City finds that the proposed zone change does not significantly affect an existing or planned transportation facility because all of the requirements in OAR 660-012-0060(9) are met.

*0060(9)(a): The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the plan map:*

As discussed above at EC 9.8865(1), the subject properties are designated as commercial on the City's adopted comprehensive plan map (i.e., the Metro Plan diagram). The proposed GO

zoning is consistent with the current commercial comprehensive plan map designation for commercial use. The amendment does not change the plan map.

*0060(9)(b): The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP:*

The City of Eugene's adopted and acknowledged Transportation System Plan (TSP) is the Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan). The Eugene City Council adopted the current version of the plan on September 10, 2001, by Ordinance No. 20234.<sup>1</sup> In 2001, the criteria for adopting TransPlan (classified as a "major update" to the 1986 version), was as follows: "(a) Consistency with the relevant statewide planning goals adopted by the Land Conservation and Development Commission; and (b) Consistency with the Eugene-Springfield Metropolitan Area General Plan (Metro Plan)." In support of its adoption of the 2001 TransPlan, the City Council adopted 50 pages of legislative findings demonstrating its compliance with these two criteria.

Both before and since the City Council adopted the 2001 TransPlan, the subject properties were designated on the City's adopted comprehensive plan map (Metro Plan diagram) as Commercial. In adopting TransPlan, the City Council found it to be consistent with the Metro Plan, which includes the Metro Plan diagram. Since the 2001 Metro Plan diagram designated the subject properties as Commercial, the 2001 finding that TransPlan is consistent with the Metro Plan is a finding that TransPlan is consistent with a commercial designation for these properties. Because a commercial zoning on these properties will not change (is consistent with) the property's comprehensive plan map Commercial designation, and TransPlan is consistent with the Commercial designation, a commercial zoning on these properties is consistent with the City's acknowledged TSP.

Additionally, pursuant to OAR 660-012-0030(3), within UGBs, the determination of local and regional transportation needs must be based on population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan. The City's 2001 finding that TransPlan is consistent with OAR 660-012-0030(3) specifically states that TransPlan relied on the same forecasts and distributions that were relied upon for the Metro Plan periodic review. Because the 2001 Metro Plan designates the subject properties as Commercial, the forecasts and distributions relied upon for TransPlan were based on that same Commercial designation. Since TransPlan was found to be consistent with OAR 660-012-0060(3), and acknowledged as such, the City finds that the determination of transportation needs embodied in, and addressed by, TransPlan, is consistent with the subject property's Commercial designation.

*0060(c): The area subject to the amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-220(1)(d),*

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<sup>1</sup> The City Council has subsequently amended TransPlan by Ordinance No. 20442 (enacted on November 9, 2009) and Ordinance No. 20461 (enacted on August 11, 2010). Those amendments are immaterial to these findings.

*or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.*

The subject properties were not exempted from the TPR at the time of an urban growth boundary amendment.

Based on the findings above, the proposed zoning map amendment does not significantly affect an existing or planned transportation facility.

### **Staff Recommendation**

Based on the available evidence, and consistent with the preceding findings, staff recommends the Hearings Official approve the requested zone change to GO/WB General Office with Wetland Buffer Overlay.

Consistent with EC 9.7330, unless the applicant agrees to a longer time period, within 15 days following close of the public record, the Eugene Hearings Official shall approve, approve with conditions, or deny this application. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, stating the facts relied upon in rendering a decision and explaining the justification for the decision based upon the criteria, standards, and facts set forth. Notice of the written decision will be mailed in accordance with EC 9.7335. Within 12 days of the date the decision is mailed, it may be appealed to the Eugene Planning Commission as set forth in EC 9.7650 through EC 9.7685.

### **Attachments**

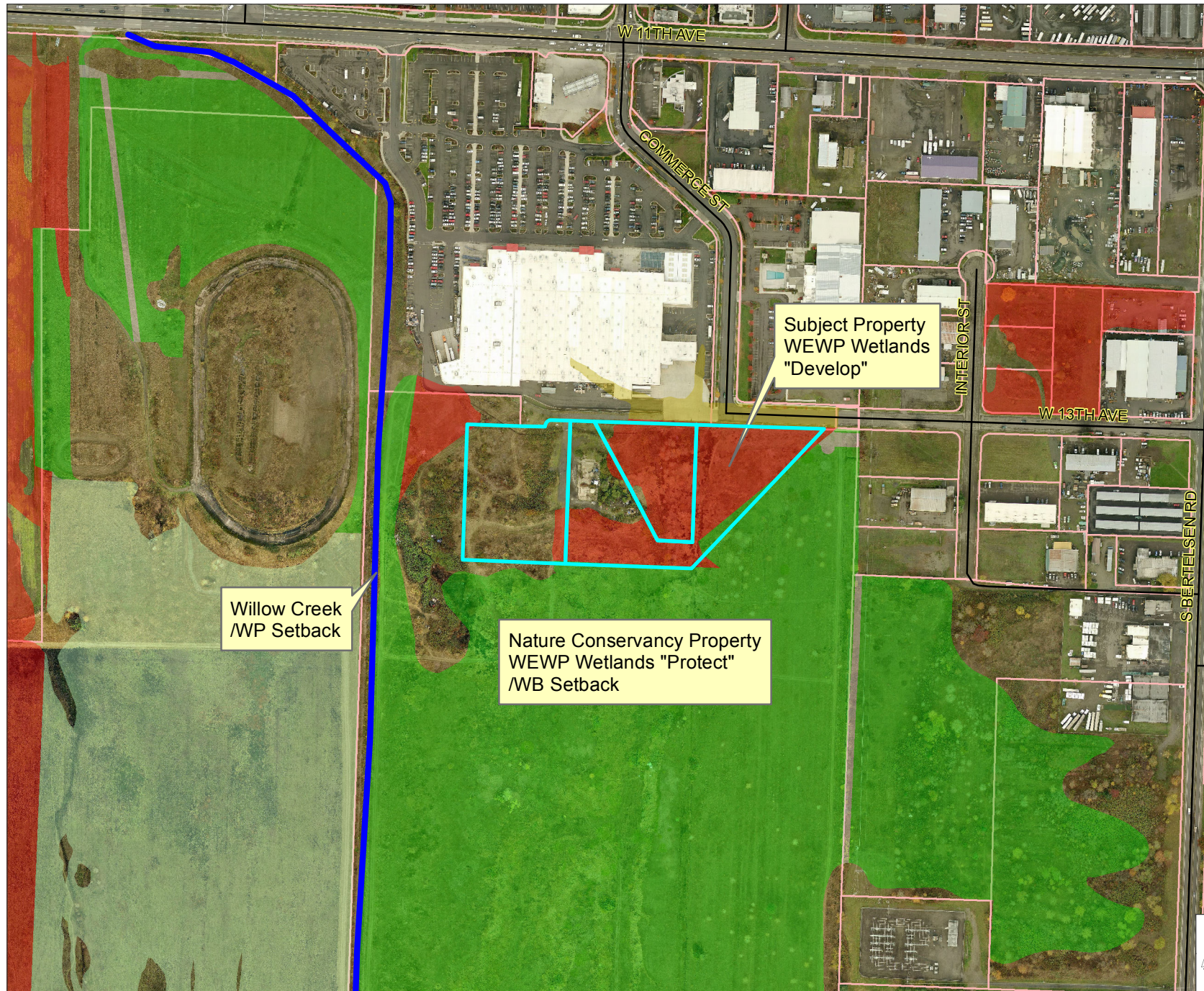
A vicinity map is attached with the West Eugene Wetlands Plan designations identified. The applicant's materials, documents related to TPR legislative history identified above, and the entire application file, are available for review at the Eugene Planning Division offices. The Hearings Official will receive a full set of the record materials for review prior to the public hearing. These materials will also be made available for review at the public hearing.

### **For More Information:**

Please contact Becky Taylor, Associate Planner, City of Eugene Planning Division, at: (541) 682-5437; or by e-mail, at: [becky.g.taylor@ci.eugene.or.us](mailto:becky.g.taylor@ci.eugene.or.us)



# Cuddeback Holdings LLC (Z 12-4) Vicinity Map



## Legend

- Protect
- Restore
- Develop
- Planned Trans Corridor
- Utility Corridor
- Undesignated
- Previously Filled

November 26, 2012

Caution:  
This map is based on  
imprecise source data,  
subject to change, and for  
general reference only.



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